



# Suter-Wallaugh-Corbett & Associates

Government Relations

September 14, 2009

Agenda Item 6.1

September 2, 2009

TO: Dennis Fay, Executive Director  
Alameda County Congestion Management Agency

Christine Monsen, Executive Director  
Alameda County Transportation Improvement Authority

FR: Suter, Wallaugh, Corbett & Associates

RE: Legislative Update

**End of a Session:** The first half of the 2009-2010 session is scheduled to end September 11. However, legislation that remains with the Legislature after this date is not dead, but become a two-year bills that can be taken-up when the Legislature reconvenes. Normally the Legislature would not reconvene until January 2010, but the Governor keeps calling special sessions.

Governor Schwarzenegger has recently called a special session to address education issues related to the State's ability draw down "Race to the Top" dollars included in ARRA. In order to be eligible for these funds, state law must be amended to link test scores with teacher performances, eliminate the cap on the number of charter schools, and expand open enrollment to allow students to attend schools in any district.

In addition, the Governor intends to call another special session to implement the findings of the Commission on the 21<sup>st</sup> Century Economy. The Governor issued an Executive Order at the end of July extending the deadline for a third time for the Commission to issue its report on overhauling California's revenue system. The report is now due by September 20, 2009, and the Governor is expected to call a special session shortly thereafter.

Finally, end of session efforts to craft a plan for the preservation and management of the delta, including a canal, is looking like a long shot. The Governor sent a letter to leadership stating he could not sign a water bill without the infrastructure necessary to improve water supply reliability – such as dams. A 14 member conference committee has been created (conference committees normally only have 6 members) to craft a consensus package. While this is a priority for Senate President Pro Tem Steinberg, there are numerous issues to be resolved within the next week. Failure to craft a consensus package before the end of session will likely lead to another special session.

**Budget Clean-up:** As expected there will be clean-up measures to the July budget. Amendments are being reviewed to alter the deferral of Highway User Tax Account subventions to cities and counties. The existing law defers these payments from July

through December. The new proposal would make the July and August payment with the September payment, and then defer the October-March payment to April.

Changes are also being drafted to clean-up errors and clarify provisions in the Prop 1A loan language. The primary changes relate to moving up dates for when bonds can be issued. These changes are necessary because the Legislature failed to approve ABX4 27, which created a legally suspect process for redevelopment agencies to extend their lifespan in exchange for giving a portion of the tax increment revenue to the state. You will recall that if the redevelopment proposal generated at least \$3 billion for the state then the Prop 1A loan would not be needed. These date changes will allow local governments to get to market faster and ensure that the backfill is in place before property tax funds are transferred in January.

**Prop 1A Securitization:** The California Statewide Communities Development Authority is the entity authorized by the state to securitize the property tax loans. This group has scheduled two “webinars” on September 10<sup>th</sup> and 11<sup>th</sup> to provide information on how the securitization process will work. Local government can sign-up for these events and to receive email alerts on approaching deadlines at <http://www.psacommunities.org/fs/apps/?app=22>

**High Speed Rail:** The Governor submitted to the Federal Rail Administration an application totaling \$1.1 billion for ARRA high speed rail funding. This application consists primarily of “Track 1” projects which can quickly begin construction. The bulk of the projects focus primarily on capital improvements to the state’s intercity rail system, as well as a \$400 million request for the construction of the train box at the Transbay Transit Center. A separate application will be submitted in October to fund the High Speed Rail Authority’s corridor plans, which are known as Track 2 projects.

Also released last week was the court’s decision on the lawsuit challenging the High Speed Rail Authority’s environmental review process in selecting the Pacheco Pass route. While both sides prevailed on some issues, it is unclear at this time if the decision will significantly impact on the Authority’s planning and review of the San Jose to San Francisco segment and jeopardize the eligibility of federal high speed rail funds.

**SB 375 Implementation:** Implementation of SB 375 is coming to a head on multiple fronts. First, the Regional Targets Advisory Committee (RTAC), which was created by SB 375 to advise CARB on the reduction goals that each region should obtain, released its draft report on Monday, August 31<sup>st</sup>. At the RTAC meeting the next day it was announced that public comments should be submitted within one week. A copy of the draft report can be found at the following website:  
<http://www.arb.ca.gov/cc/sb375/rtac/meetings/meetings.htm>

And comments can be submitted at this website:  
[http://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=sb375-rtac-ws&comm\\_period=1](http://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=sb375-rtac-ws&comm_period=1)

In addition, the California Transportation Commission's Regional Transportation Plan working group has released draft guidelines to incorporate the addition of SB 375's Sustainable Communities Strategy (SCS) requirements. The draft SCS chapter can be found at the following website:

[http://www.catc.ca.gov/programs/rtp/Draft\\_SCS\\_Chapter\\_3.40.pdf](http://www.catc.ca.gov/programs/rtp/Draft_SCS_Chapter_3.40.pdf)

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Bills	Subject	Status	Client - Position
<u><b>AB 289</b></u> <u>(Galgani)</u> High-speed rail.	<p>AB 289 was substantially amended to require the High-speed Rail Authority, to the extent possible, to use the Prop 1A bond proceeds to match federal ARRA funds</p> <p>The bill previously proposed extending the existing CEQA exemption for grade separation projects to high-speed rail grade separation projects.</p> <p>The bill is currently in the Senate Rules Committee where it will likely be referred back to Senate Transportation &amp; Housing for hearing.</p>	SENATE RLS.	ACTIA-Watch CMA-Watch
<u><b>AB 338</b></u> <u>(Ma)</u> Transit village developments: infrastructure financing.	<p>AB 338 would allow a city or county to create a transit village infrastructure financing district.</p> <p>For the purpose of financing transit improvements this bill would allow a local agency to establish an infrastructure financing district (IFD) without a public vote. The IFD would dedicate the incremental growth in property tax values to transit improvements. The bill would also require the local agency to dedicate 20% of the increment to low income housing projects within the district. AB 338 does not alter the existing exemption for school funds and the local agency must negotiate with and get the approval of the other taxing jurisdictions before their share, if any, is dedicated to the IFD.</p>	SENATE THIRD READING	ACTIA-Watch CMA-Watch MTC-Support & Seek Amendment
<u><b>AB 468</b></u> <u>(Hayashi)</u> Public Employees'	<p>AB 468 has been sent to the Governor for signing.</p> <p>AB 468 would authorize ACTIA to enact a graduated</p>	ASSEMBLY ENROLLMENT	ACTIA – Sponsor CMA – Support

Medical and Hospital Care Act: employer contributions.	vesting schedule for Public Employees' Medical and Hospital Care Act (PEMHCA) benefits that specifies no employer contribution for the first five years of service. After five years of service the employer's contribution increases to 50%, and the contribution rate increases 5% per year, with 100% employer contribution after 15 years of service.	MTC-None
<u><b>AB 497</b></u> <u><b>(Block)</b></u> Vehicles: high-occupancy vehicle lanes: used by physicians.	This bill would allow a physician to use an HOV lane regardless of occupancy requirements when traveling to an emergency call if the car displays an insigne to be developed by the Department of Motor Vehicles.  AB 497 failed passage in the Senate Transportation & Housing Committee. The vote was 3-4, with 4 members not voting. The bill was granted reconsideration.	SENATE T. & H.  ACTIA - Oppose CMA – Oppose MTC-Oppose
<u><b>AB 628</b></u> <u><b>(Block)</b></u> Vehicles: toll evasion violations.	This bill permits toll roads and bridges operating in California, which already use vehicle identification cameras for recording toll violators, to begin using the same technology for the payment of tolls. This method is in addition to cash, a transponder (e.g., FasTrak), or other electronic toll payment devices that are authorized under current law.	ASSEMBLY CONCURRENCE  ACTIA - Watch CMA – Watch MTC-Support
<u><b>AB 652</b></u> <u><b>(Skinner)</b></u> Vehicles: vehicle length limitation.	AB 652 creates a pilot program for AC Transit to test the use of bike racks that accommodate three bicycles.  The bill is currently on the Senate Consent Calendar. AB 652 was sent back to the Senate to amend the bill to address a couple issues raised by Caltrans. The amendments address actions of the Route Review	ASSEMBLY CONCURRENCE  ACTIA – Support CMA – Support MTC-None

	Committee when a route is changed, and inserts intent language that mirrors existing law that applies to two position bike racks. The amendments do not include Caltrans' request to complete an engineering analysis of the routes where these racks will be used on 45 foot buses.	
<b><u>AB 672</u></b> <b>(Bass)</b> Transportation: bond-funded projects: letter of no prejudice.	This bill would establish a process for local and regional agencies to apply for a Letter of No Prejudice (LONP) for any project using Prop 1B funds. AB 672 has been approved by the Legislature and it is currently pending on the Governor's desk.  If approved by the entity administering the Prop 1B program, the LONP will serve to ensure the project sponsor will be reimbursed for expending its own funds for any bond-funded component of the project. Given the uncertainty of the state's budget and financial markets, Speaker Bass has introduced this measure to give local entities a means to deliver projects even if the bond funds are not available.	ASSEMBLY ENROLLED  ACTIA - Support and Seek Amendments CMA-Support MTC-Support
<b><u>AB 744</u></b> <b>(Torrico)</b> Transportation: toll lanes: Express Lane Network.	AB 744 authorizes BATA to finance, construct and operate an express lane network in the Bay Area. The bill establishes a framework for creating corridor working groups that will plan and develop HOT lanes within each corridor.  Due to continued opposition from Sierra Club and new opposition from Caltrans engineers, AB 744 has become a two-year bill and was held on the Suspense File.	SENATE APPR. SUSPENSE FILE  Two-Year Bill  ACTIA - Support In Concept CMA - Support In Concept MTC-Sponsor

<b><u>AB 798</u></b> <b>(Nava)</b> California Transportation Financing Authority: toll facilities.	AB 798 would create the California Transportation Financing Authority with specified powers and duties relative to issuance of bonds to fund transportation projects to be backed by various revenue streams of transportation funds, and toll revenues. The purpose of the Authority is to finance the construction of new capacity or improvements for the state transportation system.  <i>AB 798 has been amended to include bus projects as well as rail. However, amendments removing the requirement for Bay Area counties to seek approval from MTC prior to submitting an application with the CTFIA was rejected by the sponsors and the Senate Transportation &amp; Housing consultant. The reasoning was that this requirement is consistent with the regional planning structure in the Bay Area.</i>	SENATE THIRD READING	ACTIA - Support and Seek Amendments CMA - Support and Seek Amendments MTC-None
<b><u>AB 1175</u></b> <b>(Lorlakson)</b> Toll facilities.	AB 1175 was approved by the Senate Appropriations Committee and is currently pending on the Senate Floor.  AB 1175 would add the Dumbarton and Antioch Bridges into the Toll Bridge Seismic Retrofit Program (TBSRP) and authorize the Bay Area Toll Authority (BATA) to administratively increase bridge tolls for the purposes of completing these seismic retrofit improvements, to meet bonding obligations, and for other uses.	SENATE THIRD READING	ACTIA-Support CMA-Support MTC-Sponsor
<b><u>AB 1186</u></b> <b>(Blumenfield)</b> Employee parking.	AB 1186 is intended to promote the use of the existing “parking-cash-out program.”  This bill would require a lessor of a building located in a non-attainment area to list parking costs as a separate line	SENATE THIRD READING	ACTIA – Watch CMA – Watch MTC-None

	item on all lease agreements. This requirement would only apply leases that provide space for 50 or more employees. Unbundling the parking cost would make it easier to offer employees cash in lieu of parking subsidies.		
<b><u>AB 1386</u></b> <b>(Hayashi)</b> State highways.	AB 1386 was approved by the Senate Appropriations Committee and is currently pending on the Senate Floor.  AB 1386 amends existing law to allow the proceeds from the sale of state owned right-of-way along the proposed Route 238 corridor to be used for both state and local transportation improvements specified in the Local Alternative Transportation Improvement Program (LATIP). Existing law limits the use of these funds to state facilities.	SENATE THIRD READING	ACTIA – Support CMA – Support  MTC-None
	The bill also amends both the Rt 238 and Rt 84 LATIP statutes to specify that the proceeds from the sale of property is deposited into a special account that AB 1386 creates until it is used to implement a LATIP project. Language also allows for local fund to advance a LATIP project and be repaid at a later date with the sale proceeds.  AB 1386 will be amended this week to outline the settlement agreement with respect to replacement housing for current residents.	SENATE THIRD READING	ACTIA-Oppose CMA – Oppose  MTC-Oppose

	Previously AB 1500 proposed to extend the sunset date for 5 years. In addition, the extension does not apply to the existing exemption for hybrid vehicles such as the Prius. The exemption for hybrid vehicles would sunset on January 1, 2011.		
<u><b>SB 205</b></u> <u>(Hancock)</u> Traffic congestion: motor vehicle registration fees.	SB 295 was held on the Assembly Appropriations Suspense File. There is no fiscal or policy reason to hold this bill. We are working with the Senator Hancock on efforts to release this bill from the Suspense File.  This bill would allow any county congestion management agency to place on the ballot a majority vote measure to impose up to a \$10 fee on each vehicle for the purpose of funding congestion mitigation and air quality programs	ASSEMBLY APPR. SUSPENSE FILE  MTC-None	ACTIA – Support CMA – Sponsor  MTC-None
<u><b>SB 391</b></u> <u>(Liu)</u> California Transportation Plan.	SB 391 requires Caltrans to update its state transportation plan by December 31, 2015 and every five years thereafter.  This bill also requires the plan to address how the state will meet the transportation infrastructure and mobility needs of California and attain air pollution standards required by federal and state law and achieves greenhouse gas (GHG) emissions reductions needed from the transportation sector.	ASSEMBLY THIRD READING  MTC-None	ACTIA – Support CMA – Support  MTC-None
<u><b>SB 406</b></u> <u>(DeSaulnier)</u> Land use: environmental	While SB 205 was held on the Suspense File, SB 406 was approved with amendments. The amendments change how the \$2 vehicle registration fee is imposed, and the amendments add congestion management agencies as	ASSEMBLY FLOOR	ACTIA-Support and Seek Amendments CMA - Support If Amended

quality.	<p>eligible recipients for grants.</p> <p>In general the bill authorizes metropolitan planning organizations to request the air district to increase the air quality registration fee by up to a \$2 on each vehicle registered within the district. If the population exceeds 300,000 then all amounts above \$1 must be used for grants to cities, counties and congestion management agencies for planning and projects related to implementing a regional blueprint plan. In the Bay Area, the resolution requesting the surcharge must be adopted by both MTC and ABAG.</p>	MTC-None	
<b>SB 425 (Simitian)</b> Personal and corporate income taxes: deductions: parking: credits:	<p>This bill also makes changes to the membership and duties of the Office of Planning and Research's Planning Advisory and Assistance Council (PAAC). The PAAC currently consist of representatives from cities, counties, and regional agencies that are appointed by the Director of the Governor's Office of Planning &amp; Research. The PAAC assists OPR in the development State's Environmental Goals and Policies Report. SB 406 would significantly change the composition of the PAAC members and assign additional duties to the PAAC, such as coordinating regional blueprint plans.</p> <p>SB 425 was held on the Senate Appropriation's Suspense File.</p> <p>SB 425 precludes employers subject to the Parking Cash-Out Law from claiming a deduction for employee parking unless all employees are offered a parking cash-out</p>	SENATE APPR. SUSPENSE FILE	ACTIA-Watch CMA-Watch  MTC-Support & Seek Amendments

ridesharing expenses.	<p>program that complies with the Parking Cash-Out Law. In addition, the bill allows employers to claim a tax credit for costs incurred during the taxable year for commute reduction expenditures, such as vanpools and transit passes.</p> <p>In order to eliminate fiscal impacts, SB 425 was amended to reduce the cost of the PCOL tax credit by changing how the credit is applied and simultaneously creating a new tax credit for commute reduction expenditures. While the bill allows for a commute reduction tax credit of 80% of the cost, the credit is limited to about \$170 per year.</p>	
<b><u>SB 455</u></b> <u>(Lowenthal)</u> High-speed rail.	<p>SB 455 is on the Assembly Floor and could be sent to the Governor this year.</p> <p>This bill makes numerous technical changes to operational practices of the High Speed Rail Authority, such as the ability acquire property and expend funds. The bill also makes the following more substantive changes to the HSRA:</p> <ul style="list-style-type: none"> <li>• Requires the Governor's appointees to be confirmed by the Senate</li> <li>• Requires preparation of a publicly adopted project schedule and a detailed assessment of delivery milestones.</li> <li>• Establishes criteria for making investments in Phase 1 projects to include:           <ul style="list-style-type: none"> <li>• enhanced rail access to stations and terminals, with priority given to those serving the largest</li> </ul> </li> </ul>	ASSEMBLY INACTIVE FILE

	<ul style="list-style-type: none"> <li>employment centers;</li> <li>improving travel times and service for existing commuter and intercity rail services; and</li> <li>improving connections to the San Joaquin Valley from the Bay Area or Southern California.</li> </ul>		
<b><u>SB 535</u></b>  (Yee) Vehicles: high-occupancy vehicle lanes.	<p>SB 535 has been amended to narrow the scope and potentially the impact of a new a new class of vehicle that would be eligible for stickers exempting that vehicle from HOV lane occupancy requirements.</p> <p>As amended, an HOV lane exemption sticker would be available starting January 1, 2011 for a partial zero-emission vehicle and have a fuel economy rating of 65 miles per gallon. This “sticker” program would commence after the Prius sticker program sunsets. The 65 mph sticker would sunset on January 1, 2015 and it would be limited to 65,000 stickers.</p>	ASSEMBLY THIRD READING.	ACTIA-Oppose CMA-Oppose  MTC-None (MTC removed its Oppose position at the July 10 Legislative Committee meeting.)
<b><u>SB 728</u></b>  (Lowenthal) Air pollution: parking cash-out program.	<p>SB 728 was approved by the Assembly, and has moved back to the Senate for a concurrence vote.</p> <p>SB 728 is another bill that attempts to add teeth to the Parking Cash-out Program. This bill would authorize the cities, counties, and air districts to adopt a local ordinance and penalty to ensure employers comply with the program.</p> <p>Under the Parking Cash-out Program any employer with 50 or more employees that are located in a non-attainment area must provide a parking cash out program if the employer provides a parking subsidy to employees)</p>	SENATE UNFINISHED BUSINESS	ACTIA-Watch CMA – Watch  MTC-Support

<p><b><u>SB 783</u></b>  <b>(Ashburn)</b>  <b>High-speed rail.</b></p>	<p>SB 783 has been approved by the Legislature and it is currently awaiting action by the Governor.</p> <p>This bill requires the HSRA to adopt the business plan and submit the plan to the Legislature by January 1, 2012 and every two years thereafter. The Plan must address the following issues:</p> <ul style="list-style-type: none"> <li>• Include the most recent patronage forecast to identify high, medium and low ridership.</li> <li>• Prepare alternative financial pro formas for different levels of service.</li> <li>• Identify supplemental funding sources to augment the bond funds.</li> <li>• Identify agreements to public or private entities to fund components of the project.</li> <li>• Identify alternative public-private development strategies.</li> <li>• Hold at least one public meeting on the business plan.</li> </ul>	<p>SENATE ENROLLMENT</p>	<p>ACTIA-Watch CMA – Watch</p>
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